

UNITED STATES DISTRICT COURT
for the

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

12/19/22

SEAN F. MCVOY, CLERK

Aaron Joseph Cunningham
Petitioner

v.

United States of America

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 4:22-CV-5165-MKD
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Aaron Joseph Cunningham
(b) Other names you have used: Aaron Joseph Guerresi
2. Place of confinement:
 - (a) Name of institution: Benton County Corrections Department
 - (b) Address: POD 302-13 7122 W. Okanogan Pl. Bldg. B
Kennewick, WA 99336
 - (c) Your identification number: 100462
3. Are you currently being held on orders by:

Federal authorities State authorities Other - explain:
4. Are you currently:

A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: _____
 - (c) Date of sentencing: _____

Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention Immigration detention Detainer The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines) Disciplinary proceedings Other (explain): __________

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: United States of AmericaUnited States District Court(b) Docket number, case number, or opinion number: Z:22-CR-61-RMP-1

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I am challenging the Detainment of U.S. Citizens without Due Process in violation of Constitutional Liberties clause of the 4th and 14th Amendments(d) Date of the decision or action: Sept 15 2022

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

 Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: United States District Court
Case # Z:22-CV-00229-MKD(2) Date of filing: October 2022(3) Docket number, case number, or opinion number: # Z:22-CV-00229-MKD(4) Result: failure to state facts(5) Date of result: December of 2022(6) Issues raised: The Constitution Rights to liberty, Due Process
Fourth Amendment Due ProcessFourteenth Amendment Due Process and libertyBail is illegalDetainment without nonconduct or conduct mens rea factscontrario - mandamus - nullius - nullius record - HabeasCorpus - the my injuries

(b) If you answered "No," explain why you did not appeal: _____

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

 Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: I sent an Appeal Motion to
The United States District Court

(2) Date of filing: Dec 9 2022

(3) Docket number, case number, or opinion number: 2:22-cv-00229-MKD

(4) Result: unknown

(5) Date of result: NA

(6) Issues raised: Please see attached sheets

Same as 1983 Civil complaint

Same as first Appeal

(b) If you answered "No," explain why you did not file a second appeal:

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal:

I am filing a Habeas Corpus as one
Suek to which is my 3rd Appeal

10. Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: Please see attached sheets

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: in violation of Fourth Amendment to the United States Constitution, Due Process, Equal Protection, and Liberty see attached sheet

- (a) Supporting facts (Be brief. Do not cite cases or law.):

United States Constitution, I have been injured with Emotional distress, anxiety and mental Torcher and am in risk of arm, to which I am in bondage with violent convicted criminals who pose a harm to my shoddy!

- (b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: No preliminary hearing, or facts for proof I would not show to court, that I am a danger or a flight risk to which I am not

- (a) Supporting facts (Be brief. Do not cite cases or law.):

Pretrial detention is a violation of liberty and without due process and equal protection of the laws and court proceeding is in violation of the United States Constitution and Human Rights

- (b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: Fourteenth Amendment Due Process, Liberty No state shall make or enforce any law that deprives any citizen of life, liberty, or property without due process of law

- (a) Supporting facts (Be brief. Do not cite cases or law.):

Constitution see attached sheet

Laws repugnant to the Constitution are void

- (b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR: An Act of Congress repugnant to the Constitution cannot become a law. The Courts of the United States are bound to take notice of the Constitution. Under Amendment 3 of the Constitution

(a) Supporting facts (Be brief. Do not cite cases or law.):

All Courts are inferior to the Supreme Court
No State or The United States can be party
to a suit against a Citizen, i never willingly
or unwillingly agreed to an Arbitrational Contract
and owe no obligations to any State or Country

(b) Did you present Ground Four in all appeals that were available to you?

Yes

No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

I explained all and These Tyrannical Judges and
officials of the United States are in violation and
are committing Treason on the People of the
United States

Request for Relief

15. State exactly what you want the court to do: I want to be released, I want

my Sovereignty reinstated to me and made known, I demand
Compensatory damages of 100 million dollars in gold
bullion not fiat Federal Promissory notes, I am open
To discussion on terms of Relief I have been enslaved to
This system multiple times over a 25 year span and demand to
be compensated as I now am prone to PTSD, for the injuries of
bondage, enslavement, the torcher of mentally being inflicted with
emotional distress until I plead to The states demands either
by imprisonment, Probation, or a fine of their choosing. They
have forcibly kept me under bondage, locked in the gallows, as I am
mentally torched and treated like a convicted savage, until I breakout,
and have no strength left to fight for my liberty and unwillingly
agree to their terms, so I may no longer be deprived of my life
liberty and property or the privileges or immunities guaranteed to
me by The United States Constitution To which These Tyrants
unexpectedly snatch away my liberty, To which I am permanently
bondaged to worry an uneasiness about what may happen to my liberty...
I believe \$100 million barely makes or serves as an amount
to my injuries....

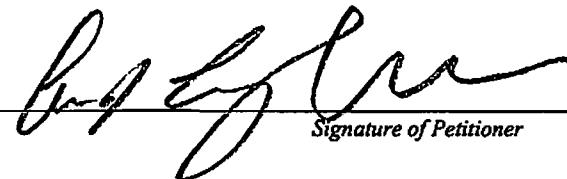
Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

December 14, 2022

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12-14-2022


[Handwritten signature of the petitioner, appearing to read "John E. Lee"]

Signature of Petitioner

Signature of Attorney or other authorized person, if any

by the Due Process Clause from Arbitrary Government actions, my rights are not extinguished by justified State confinement. The State of Washington and the United States Judicial System has been violating my right to personal security for over 25 years; This personal right constitutes an historic liberty interest protected substantially by the due process clause.

Law repugnant to the Constitution is void and that courts, as well as other departments, are bound by that instrument, an Act repugnant to the Constitution cannot become law, and all Courts of the United States are bound to take notice of the Constitution. The Constitution Forms rules and limitation to this kind of government

The powers of the legislature are defined and limited under the 3rd Amendment of the Constitution, and these limits may not be mistaken or forgotten. In the distribution of this power it is declared that the Supreme Court shall have original jurisdiction in all cases be those which a state shall be a party.

I demand Mandamus

I demand Certiori

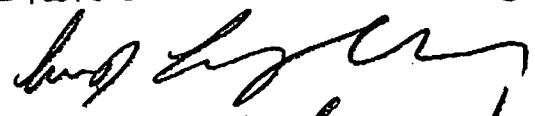
I demand The records that justify my detainment
To which are null the record

I demand this Error To which an extraordinary remedy
A writ of mandamus

I demand certificate of my Sovereignty that I am free from any obligation, or Tax upon myself, my body, my property, I free from any obligation of a state or Country and make my oath to uphold the Declaration of Human Rights and not commit Treason against my naturality

Citizenship of the United States of America

10-14-2022
Dated)


Aaron Joseph Cunningham

Prettrial detainees are held in custody without any proof of intent to commit an unlawful act. *Papachristou v. City of Jacksonville*, 405 U.S. 156, 92 S. Ct. 839, 31 L. Ed. 2d 110 (1972) states that criminalizing innocent conduct was impermissible for many reasons, including the fact that it made "criminal activities which by modern standards are normally innocent" and did so without proof of any "intent to commit an unlawful act." Id. at 163, 92 S. Ct. 839. It concluded that criminalizing passive nonconduct while eliminating the requirements of a guilty mind violates due process clause protection "cannot be squared with our constitutional standards and is plainly unconstitutional!" Id. at 171, 92 S. Ct. 837. Lambert's and Papchristou's holdings rested on the due process clause of the Fourteenth Amendment. 355 U.S. at 229-30, 78 S. Ct. 240; 465 U.S. at 165, 92 S. Ct. 837; U.S. CONST. amend. XIV.

A judge cannot detain a citizen awaiting trial, claiming the assumption that he might not come to court, or to assure his presence at court, it is an assumption that he won't be present at court, it is an assumption he will commit a crime or harm the community, activities which by modern standards are normally innocent and do not without proof any intent to commit an unlawful act; to which is passive nonconduct while eliminating the requirements of a guilty mind violates due process clause protections, and cannot be squared with Constitutional standards and is plainly unconstitutional..

Ragan, 58 Wash.2d 779, 364 P.2d 916). Applying that test the Supreme Court held that passive nonconduct without mens rea "makes no distinction between conduct calculated to harm and that which is essentially innocent" and therefore exceeds the State's police power. Id. at 795, 364 P.2d 1059.

To detain citizens awaiting trial on account of mere presence at trial is unconstitutional, its no distinction between conduct calculated to harm and that which is essentially innocent, and it bears an insufficient relationship to the objective of safeguarding the public. This rule is an unreasonable exercise of the Judge's power and is arbitrarional in every way of the meanings, it is erratic presumption that violate due process of law and equal protection.

The records are not filed before the courts to justify, and absolutely devoid of any evidence showing bad conduct. The mere fact of a defendants past history is null and void when that obligation has already been fulfilled; Debt Paid, it becomes double jeopardy to use prior history of miss conduct to assume current

The legislature ^{retain} whether the legislature possesses the power to ~~punish~~ ^{detain} pretrial detainees of innocent conduct - or, more accurately, nonconduct - without proving any mental state at all. This question of first impression is before us.

Due Process Clause Protections Limit the Legislature's Police Power To Criminalize wholly Innocent and Passive Nonconduct. Police Nor Judicial Powers are not infinite. If it were "the result would be a police state, and the legislative branch of the government would be omnipotent. *Peterson v. Hagan*, 56 Wash. 2d 48, 53, 351 P.2d 127 (1960) Under both the state and federal Constitution, a statute must have "a reasonable and substantial relation to the accomplishment of some purpose fairly within the legitimate range or scope of the police power and must not violate any direct or positive mandate of the Constitution. *Ragan v. City of Seattle*, 58 Wash. 2d 779, 783, 364 P.2d 916 (1961) (citing *Nebbia v. New York*, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940 (1934); *State v. Canyon Lumber Corp.*, 46 Wash. 2d 701, 32 Wash. 2d 551; *Campbell v. State*, 12 Wash. 2d 489; *Shean*, 185 Wash. 143, 53 P.2d 615; *City of Seattle v. Proctor*, 185 Wash. 293, 48 P.2d 238 (1935))

In *Nebbia* the Supreme Court explicitly rooted the limits of the police power in "the guarantee of due process" that "the law shall not be unreasonable, arbitrary or capricious" and "the means selected shall have a real and substantial relationship to the object sought to be attained." 291 U.S. at 525, 54 S.Ct. 505.

In other words, prior precedent of the United States Supreme Court and at this court - including *Ragan* - holds that the State's police and judicial powers are limited by the due process clause or "by constitutional protection afforded certain personal liberties." *Talley*, 122 Wash. 2d at 199, 858 P.2d 217 (citing *Olympia Forest Prod., Inc. v. Chaussee Corp.*, 82 Wash. 2d 418, 435, 511 P.2d 1002 (1973))

The Constitutional limit rule against criminalizing essentially innocent conduct ~~does not~~ applies with special force to passive conduct - or nonconduct - that is unaccompanied by intent, knowledge or mens rea. In *Lambert* The Supreme Court held that this exercise of the police power to criminalize entirely passive innocent nonconduct deprived defendant of liberty without due process of law. Id. at 229, 78 S.Ct. 240

Continuation Page

1. The Act of Congress of the 14th of April
 2. 1892 (2 Story's Laws U.S. 850) I declare an
 3. oath before the Court, that I absolutely and
 4. entirely renounce and abjure all allegiance and
 5. Fidelity which I owe to the de facto government
 6. of the United States, and all de facto
 7. states of America. Today's Government has
 8. taken over the regular government and exer-
 9. cises sovereignty over the United States; to -
 10. which belongs to the People, and I separate
 11. myself from this structure and functioning
 12. government that has been illegally established,
 13. and separated themselves from the parent
 14. state.

15. My Current government reduces and is deter-
 16. mined to diminish the Constitution of the United
 17. States of America, and abridge our's civil
 18. liberties, and binds itself to Statutes, Regulations
 19. and policies, to which the States of America
 20. exercise direct functions of government.

21. I Aaron Joseph Cunningham am a national
 22. of the United States; A human being, who
 23. shall be free from arbitrary and undue
 24. external restraint by a government or state; A
 25. right, privilege, immunity enjoyed; the absence
 26. of a legal duty imposed on a person; The liberties
 27. protected by the Constitution, to which all
 28. Governments and states are bound to, but
 29. have taken control and arbitrary, uses of power

Continuation Page

1. by the ruling elite, which uses the judicial
2. system as the instrument of control.
3. No state or Government shall make or
4. enforce any law which shall abridge the priv-
5. iligies or immunities of citizens of the United
6. States; Nor shall any state or government
7. deprive any citizen of life, liberty or property
8. without due process of law; A right guaranteed
9. by the United States Constitution Article 14.
10. I Aaron Joseph Cunningham, A body consisting
11. of the collective number of citizens and qual-
12. ified electors who possess the powers of
13. sovereignty, and exercises them through my
14. chosen representatives; who have erroneously
15. violated their powers and have become a de
16. facto government and police states, who con-
17. stantly violate and manipulate the Constitu-
18. tion of the United States
- 19.
20. Imprisonment, by whatever name it is called,
21. is a harsh thing, and when an attempt is made
22. to hide the harsh realities of criminal justice
23. behind euphemistic descriptions, a corrupting
24. irony may be introduced into ordinary speech
25. that is fully as frightening as Orwell's News-
- 26.peak." Lon L. Fuller, Anatomy of the Law 57
27. (1968).
28. No state shall deprive any person of
29. life, liberty, or property, without DUE
30. PROCESS of law

Continuation Page

1. Procedural Due Process - Notice and the
 2. opportunity to be heard by an impartial
 3. tribunal before suffering a burden under
 4. law. Procedural due process is a constitutional
 5. guaranty to each individual, that the individual
 6. will not suffer a burden by an unfair
 7. procedure under the law, in that no burden
 8. will be created that does not first require
 9. liability of the burden and then an opp-
 10. ortunity to be heard and to object to an
 11. impartial decision-maker before the burden
 12. is exacted. Due Process of law "is not a
 13. fixed theory embodying a standardized set
 14. of procedures or a trial-like hearing in
 15. each instance. To the contrary, as noted
 16. by the United States Supreme Court in
 17. *Hannah v. Larche* [363 U.S. 420 (1960)]

18. Due process is an elusive concept. *Oberholser*
 19. v. Commission on Judicial Performance
 20. 975 P.2d 663, 675-676 (Cal. 1999)

21. Procedural Due Process entitles a person to
 22. an impartial and disinterested tribunal in
 23. both civil and criminal cases and protects
 24. two central concerns (1) the prevention of
 25. unjustified mistaken deprivations and the
 26. promotion of participation and dialogue
 27. by affected individuals in the decision
 28. making process.

29. The fundamental requisite of due
 30. process of law is the opportunity to be

Continuation Page

1. Heard. Grennis v. Ordman, 234 U.S. 385,
 2. 394 (1914) The nature of the right involved,
 3. the nature of the proceeding; and the possible
 4. burden on that proceeding, are all consid-
 5. erations which must be taken into account.
 6. Hannah v. Larche, 363 U.S. 420, 422 (1960)
 7. A State deprivation of a right contrary
 8. to its process may be remedied by a later
 9. hearing. The Parratt-Hudson doctrine is a
 10. defense to a claim that a state agent
 11. violated a right to procedural Due Process
 12. by depriving the plaintiff of an interest
 13. in violation of established rules or pro-
 14. cedures. The defense allows the state
 15. to remedy the Constitutional harm of fail-
 16. ing to provide a pre-deprivation hearing
 17. by providing a sufficient post-depri-
 18. vation hearing that is capable of tem-
 19. fuling a wrongful deprivation. The
 20. doctrine emerged in Parratt v. Taylor,
 21. 451 U.S. 527 (1981); also see Hudson v.
 22. Palmer, 468 U.S. 517 (1984); The
 23. Parratt-Hudson doctrine exists to protect
 24. states from needlessly defending the
 25. accuracy of State law process when
 26. the (alleged) Due Process violation
 27. results from a deviation from the
 28. process. Chmielewski v. Massachusetts,
 29. 513 F.3d 309, 315 (1st Cir. 2008)

30. (Lynch, J.)

Continuation Page

1. Writ of error to the courts to all my
 2. judgements - action of debt affidavit of
 3. Service. An error of law I plead for the
 4. attainment of my body within a Penal
 5. institution (Jail) without due process

6. I will file a writ of error to a court
 7. of competent jurisdiction (World Court in
 8. the Netherlands), directed to the judges of a
 9. court of record, commanding them to examine
 10. the records of all U.S. courts, so that the
 11. proceedings may be corrected. Steph. Pl. 138;
 12. 2 Sancd. 100. n. 1; Rec. Ab. Error, in pr.

13. Coram nobis or coram vobis: When an issue
 14. in fact has been decided, there is not in
 15. general any appeal except by motion for new
 16. trial; and although a writ of cert. should exist
 17. which was not brought into the issue, Steph.
 18. Pl. 139. I neglected out of ignorance and a
 19. fault of my own to plead my release, but the
 20. courts proceeding affect the validity and
 21. regularity of the proceeding itself, and to
 22. remedy these errors the courts make it im-
 23. possible generally, writ of error; and is the
 24. subject to review and correct an error of the
 25. law committed in the proceedings, which is not
 26. amendable, or cured at common law, or by
 27. some of the statutes of amendment or ~~jeo fail~~
 28. Vide, generally, Tidd's Pr. ch. 43; Graham's
 29. Pr. B. 4, c. 1; Rec. Ab. Error; 1 Vern. 169;
 30. Yelv. 76; 1 Salk. 322; 2 Sancd. 46, n. 6; and

Continuation Page

1. 101, n. 1; 3 Bl. Comm. 405; Seeq Const. Law, ch. 5
2. All judgments are erroneous; This is an
3. action of debt brought in on a citizen on the
4. judgment of State in-wit Washington.
5. By the Constitution of U.S. Article 4
6. Section 1 it is declared that Full Faith
7. and credit shall be given in each state to
8. the public acts. The act of congress of
9. May 26th 1790, Vol. 1, p. 115
10. Mills v. Duryea, 7 Cranch R. 481-487,
11. and McElroy v. Cohen, 13 Peters R. 312-
12. 330; nil-debet; null record.
13. I bring this case on certiorari,
14. 314 U.S. 597, 67 S. Ct. 98 86 L. Ed. 481
15. because of its importance and its possible
16. relation to freedom of thought our nation
17. was founded by the Spirit of freedom
18. and tolerance and by the desire to secure
19. the blessings of liberty in thought and
20. action to all those upon whom the right
21. of American citizenship has been conferred
22. by statute as well as the native born.
- 23.
24. Detaining citizens before Due process
25. should be abhore, for it construction of
26. a criminal statute leads to criminalizing
27. nothing more than an evil intent accom-
28. panied by a harmless act, particularly when,
29. as here, the statutory language does not
30. extend liability so far. United States v.

Continuation Page

1. Aguilar, 515 U.S. 593, 607 (1995).

2. I Aaron Joseph Cunningham made no
3. oath that forfeits my Sovereignty nor do
4. I renounce my Civil Rights; My Oath is only
5. my loyalty to not commit treason against
6. the United States and I give my allegiance
7. to the Sovereignty I possess as a free
8. human body, to which I'm entitled to;
9. Jus Soli under the 14th Amendment

10. The Courts never acquired jurisdiction
11. at my person. Thompson v. Whitman

12. I Aaron Cunningham, at any or in any
13. known manner authorized or empowered AARON
14. CUNNINGHAM the fictitious person or U.S. corporation
15. whomsoever to appear as my agent, to
16. answer the plaintiff (Washington) in said action
17. in which judgement was so obtained.

18. I never knowingly entered into a contract
19. with Washington or any other State or Govern-
20. ment willingly or not did I empower any person
21. in a contractual agreement, nor had any
22. notice or knowledge of any process or summons
23. or any proceeding in said action or any
24. means or opportunity of defending myself
25. therein or therefrom, and this I am ready
26. to verify; wherefore I pray judgement whether
27. the plaintiff's his action aforesaid ought
28. to have and maintain against him the
29. said Aaron Cunningham

Continuation Page

1. I Aaron Joseph Cunningham willingly give to
 2. the United States my Loyalty as the hallmark
 3. of my citizenship and nationality, and ex-
 4. press my legal and moral predicate to the ob-
 5. ligation not to commit treason; as well
 6. as the obligation of the states to protect
 7. its citizens and subjects, and it's best
 8. interest, if it remains to be silent, for the
 9. ignorant does not nor will not destroy the
 10. functions of America the Corporation.

11. Bouvier, 1853, Allegiance A tie which
 12. binds the citizen to the Government, in return
 13. for the protection which the Government affords
 14. him; I do not consent to an allegiance that
 15. violates my Civil Rights, and Detains my liberty
 16. before due process; Only do I give my loyalty,
 17. to the United States of America, and its
 18. Constitution, the Supreme law of the land.

19. Z. Cranch, 64; 1 Peters C.C. Rep. 159; 7
 20. Wheat. R. 283; 9 Mass. R. 461. I do not
 21. renounce my allegiance to the America of
 22. my Fathers, and make my oath and allegiance
 23. to the Constitution of the United States
 24. of America and its laws guaranteed by
 25. the Fourteenth Amendment.

26. 1 Kent, Com. 71; Com. Rep. 677; 2 Ken., Com.
 27. 42 Citizen "National" and Permanent
 28. Allegiance; 56 Yale L.J. 58, 69 1946.

29. To this I hold secrecy and shall not indulge
 30. the ignorant to it's secrecy *Signatures*
 Date: 12/14/22



Federal Defenders of Eastern Washington and Idaho

10 N Post Street Suite 700 Spokane, Washington 99201 P: 509.624.7606 F: 509.747.3539

September 19, 2022

Executive Director
Andrea K. George

Chief Deputy
Ben Hernandez

Managing Attorney
Spokane & North Idaho
Amy H. Rubin

Senior Litigator
John B. McEntire, IV

Chief Investigator
Gabe Caballero

Aaron Joseph Cunningham
c/o Spokane County Jail
1100 W. Mallon
Spokane, WA 99260-0320

Legal Mail-Attorney/Client Privileged

RE: *United States of America v. Aaron Joseph Cunningham* 2:22-CR-061-RMP

Dear Mr. Cunningham:

Enclosed please find a copy of the following documents regarding the above-entitled case:

-Pretrial Order

If you have any questions or concerns, please feel free to contact this office at (509) 624-7606. Thank you.

Sincerely,

Coby Patterson

Coby Patterson, Paralegal
Justin Lonergan, Trial Attorney

Branch Office
306 East Chestnut Avenue
Yakima, Washington 98901
P: 509.248.8920
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Rev. 12/2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aaron Joseph Cunningham
Plaintiff's full name and prisoner number 211738

Plaintiff,

v. Judicial system
Under the Scope of The
United States of
America

Defendant's/defendants' full name(s)

Case No. Z:22-cv-00229-JAG
(leave blank – for court staff only)

PRISONER CIVIL RIGHTS
COMPLAINT

Defendant(s).

Jury Demand?

Yes

No

(If you cannot fit all of the defendants' names in the space provided, please write "see attached" in the space above and attach additional sheets of paper, as necessary, with the full list of names. The names listed here must be identical to those in Section II. Do not include addresses here. Individuals whose names are not included in this section will not be considered defendants in this action.)

WARNINGS

1. Do not use this form if you are challenging the validity of your criminal conviction or your criminal sentence. If you are challenging your conviction or sentence, or if you are seeking restoration of good-time credits that would shorten your sentence, you must file a Petition for Writ of Habeas Corpus. If you use this form to challenge your conviction or sentence, you risk having your claim dismissed. Separate forms are available for filing a habeas petition.
2. Under the Prison Litigation Reform Act ("PLRA"), you are required to exhaust all remedies in your institution's grievance system that are available to you before filing suit. This generally means that you must file a grievance and, if it is denied, appeal it through all available levels of review. Your case may be dismissed if you fail to exhaust administrative remedies, unless the administrative grievance process was not "available" to you within the meaning of the PLRA. You are not required to plead or show that you have exhausted your claim in this complaint.



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
920 WEST RIVERSIDE AVENUE
P.O. BOX 1493
SPOKANE, WASHINGTON 99210
www.waed.uscourts.gov

SEAN F. McAVOY
CLERK OF COURT

(509) 458-3400
FAX (509) 458-3420

NOVEMBER 29, 2022

Aaron Joseph Cunningham, #100462
Benton County Jail
7122 West Okanogan Place, Building B
Kennewick, WA 99336

RE: 2:22-cv-00229-MKD; Cunningham v. The American Judicial System et al; 11/28/2022 Letter

Dear Mr. Cunningham:

The United States District Court Clerk's Office received your letter on November 28, 2022, in which you have several inquiries, namely, regarding case number 2:22-cv-00229-MKD. Please find the responses below:

1. The judge assignment for case 2:22-cv-00229-MKD was changed only due to an administrative error that occurred when the case was opened. This has since been corrected.
2. If you wish for your Federal Defender to receive documents related to this, or any other civil case, then the Federal Defender will first need to enter a Notice of Appearance in that civil case. For now, mail in your civil cases will be sent to you at the last address you have provided.

Should you have any further questions, please write us at the address above.

Sincerely,

U.S. District Court
Eastern District of Washington
Office of the Clerk

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 30, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AARON JOSEPH CUNNINGHAM,

No. 2:22-cv-00251-MKD

Plaintiff,

**ORDER TO SHOW CAUSE AND
RE-NOTING MOTIONS FOR
APPOINTMENT OF COUNSEL**

VS.

NEWPORT TOWING FIRM,

Defendant.

On October 27, 2022, Plaintiff Aaron Joseph Cunningham filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 while a federal pretrial detainee at Spokane County Detention Services. ECF No. 1. Since that time, Plaintiff has been moved to different county facilities and is currently located at the Benton County Jail. ECF Nos. 6, 9.

Plaintiff seeks leave to proceed *in forma pauperis*. ECF No. 2. However, it appears that Plaintiff is precluded from proceeding with this action without prepayment of the filing fee. According to Court records, Plaintiff is no longer

**ORDER TO SHOW CAUSE AND RE-NOTING MOTIONS FOR
APPOINTMENT OF COUNSEL - 1**

1 prepayment of the filing fee. According to Court records, Plaintiff is no longer
2 eligible to proceed *in forma pauperis* under 28 U.S.C § 1915(g). *See O'Neal v.*
3 *Price*, 531 F.3d 1146, 1153 (9th Cir. 2008); *Andrews v. King*, 398 F.3d 1113, 1116
4 n. 1 (9th Cir. 2005) (noting the “three strikes” terminology). Under this provision,
5 *in forma pauperis* status is unavailable to prisoners who have “on 3 or more prior
6 occasions, while incarcerated or detained in any facility, brought an action or
7 appeal in a court of the United States that was dismissed on the grounds that it is
8 frivolous, malicious, or fails to state a claim upon which relief may be granted.”
9 28 U.S.C. § 1915(g).

10 Plaintiff has brought at least three other cases that were dismissed as
11 frivolous or malicious or for failure to state a claim. *See Cunningham v. Mrphy, et*
12 *al.*, No. 2:04-cv-00238-FVS (E.D. Wash. Nov. 29, 2004) (dismissed without
13 prejudice for failure to state a claim upon which relief may be granted);
14 *Cunningham v. Spokane County Jail et al.*, No. 2:19-cv-00301-SMJ (E.D.Wash.
15 Feb. 3, 2020) (dismissed with prejudice for failure to state a claim upon which
16 relief may be granted); *Cunningham v. Unknown Named Agent 1 et al.*, No. 2:19-
17 cv-00318-SMJ (E.D.Wash. Jan. 30, 2020) (dismissed with prejudice for failure to
18 state a claim upon which relief may be granted). “A dismissal of a suit for failure
19 to state a claim counts as a strike, whether or not with prejudice.” *Lomax v. Ortiz-*
20 *Marquez*, 140 S. Ct. 1721, 1727, (2020). Plaintiff has thus lost the privilege of

ORDER TO SHOW CAUSE AND RE-NOTING MOTION FOR
APPOINTMENT OF COUNSEL - 2

1 filing additional suits *in forma pauperis* unless he can demonstrate that he is
2 “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). See
3 *Cunningham v. Spokane County Jail Administration et al.*, No. 2:20-cv-00356-
4 SMJ, ECF No. 18 (Dec. 14, 2020) (Order Denying Motion of Argument and
5 Dismissing Action following application of 28 U.S.C. § 1915(g)) (no appeal of
6 dispositive order taken).

7 In his present complaint, Plaintiff asserts that he has been subjected to false
8 imprisonment and intentional infliction of emotional distress, claiming that the
9 detention of pretrial detainees in jail violates due process. ECF No. 1 at 5, 7.
10 Although he presents no facts supporting an inference that he is being held without
11 due process, Plaintiff requests the establishment of pretrial detention facilities and
12 10 million dollars in gold bullion, “not fiat federal reserve notes.” *Id.* at 6. The
13 Court cannot infer from any facts presented that Plaintiff was “under imminent
14 danger of serious physical injury” when he filed his complaint on October 13,
15 2022. *See generally* ECF No. 1; *see also* 28 U.S.C. § 1915(g); *Andrews v.*
16 *Cervantes*, 493 F.3d 1047, 1055-56 (9th Cir. 2007) (discussing imminent danger
17 exception to three-strikes rule).

18 Accordingly, IT IS ORDERED:

19
20
ORDER TO SHOW CAUSE AND RE-NOTING MOTION FOR
APPOINTMENT OF COUNSEL - 3

1. Plaintiff shall **show cause** within **thirty (30)** days of the date of this
2. Order why his application to proceed *in forma pauperis* should be
3. granted.
4. In the alternative, Plaintiff may pay the \$402.00 fee (\$350.00 filing
5. fee, plus \$52.00 administrative fee) for this action **within the same**
6. **thirty-day period.**
7. Failure to do so will be construed as Plaintiff's consent to the
8. dismissal of this action without prejudice for failure to comply with
9. the filing fee requirements of 28 U.S.C. § 1914.
10. 4. The Clerk's Office shall re-note Plaintiff's Motion for Appointment
11. of Counsel, ECF No. 9, for hearing without oral argument thirty (30)
12. days after the date of this Order.

13. **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
14. forward a copy to *pro se* Plaintiff and set a case management deadline accordingly.

15. **DATED** December 1, 2022.

16. *s/Mary K. Dimke*
17. MARY K. DIMKE
18. UNITED STATES DISTRICT JUDGE
19.
20.

ORDER TO SHOW CAUSE AND RE-NOTING MOTION FOR
APPOINTMENT OF COUNSEL - 4

Cunningham v. Spokane County Jail Administration

United States District Court, E.D. Washington | December 14, 2020 | Slip Copy | 2020 WL 7342395 (Approx. 3 pages)

2020 WL 7342395

Only the Westlaw citation is currently available.
United States District Court, E.D. Washington.

Aaron Joseph CUNNINGHAM, Plaintiff,

v.

SPOKANE COUNTY JAIL ADMINISTRATION and Spokane County Jail
Officials, Defendants.

No. 2:20-cv-0356-SMJ
Signed 12/14/2020

Attorneys and Law Firms

Aaron Joseph Cunningham, Spokane, WA, pro se.

ORDER DENYING MOTION OF ARGUMENT AND DISMISSING ACTION

SALVADOR MENDOZA, JR., United States District Judge

*¹ By Order filed October 28, 2020, the Court directed Plaintiff Aaron Joseph Cunningham, a *pro se* pretrial detainee currently housed at Spokane County Detention Services, to show cause why the Court should grant his application to proceed *in forma pauperis*. ECF No. 9 at 4. In the alternative, Plaintiff could have paid the \$400.00 filing fee. *Id.* He did neither.

According to court records, Plaintiff has brought at least three other cases that a court dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted. *Id.* at 2. See *Cunningham v. Murphy*, [sic] et al., 2:04-cv-00238-FVS, ECF No. 5 (November 29, 2004) (dismissed without prejudice for failure to state a claim upon which relief may be granted); *Cunningham v. Spokane County Jail* et al., 2:19-cv-00301-SMJ, ECF No. 24 (February 3, 2020) (dismissed with prejudice for failure to state a claim upon which relief may be granted); and *Cunningham v. Unknown Named Agent 1* et al., 2:19-cv-00318-SMJ, ECF No. 15 (January 30, 2020) (dismissed with prejudice for failure to state a claim upon which relief may be granted). Consequently, Plaintiff is precluded from proceeding in this action without prepayment of the filing fee under 28 U.S.C. § 1915(g), unless he can demonstrate that he was "under imminent danger of serious physical injury" at the time he filed his complaint. *Id.* at 2.

MOTION OF ARGUMENT

On October 30, 2020, Plaintiff filed a 21-page "Motion of Argument," ECF No. 10, in which he recites various constitutional provisions, cites numerous cases, and presents arguments concerning pretrial detention. Plaintiff asserts that "[i]nnocent citizens are being arrested, detained, and locked in jails and [e]nslaved to the rules and regulations of these penal institutions designed to punish duly convicted criminals." *Id.* at 2. To the extent Plaintiff is asserting that the present conditions of his confinement violate due process, he has presented no factual allegations supporting a viable Fourteenth Amendment claim. See *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

Plaintiff does not identify the relief he is seeking in this motion. The Court has considered Plaintiff's previously filed "Argument," ECF No. 6, as well as his additional supplemental materials, ECF No. 8, in the Order to Show Cause, ECF No. 9 at 3-4. Because Plaintiff has failed to assert any requested relief or his entitlement thereto, the Court denies his "Motion of Argument," ECF No. 10.

RESPONSE TO ORDER TO SHOW CAUSE AND APPEAL

On November 9, 2020, Plaintiff filed a single-page Response, ECF No. 11, to the Order to Show Cause, ECF No. 9, as well as a construed Notice of Interlocutory Appeal, ECF No. 13. Plaintiff asserts that he is indigent and cannot afford the filing fee because any money he receives is applied to his child support obligations. ECF No. 11. He does not assert that he was "under imminent danger of serious physical injury" as required by 28 U.S.C. §